

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Case No. 22-cr-101(2) (KMM/DJF)

Plaintiff,

v.

ORDER

Brendan Lumbert,

Defendants.

This matter is before the Court on the Defendant Brendan Lumbert's Motion for Discovery and Inspection (ECF No. 115), Motion for Disclosure of 404 Evidence (ECF No. 116), Motion to Compel Attorney for the Government to Disclose Evidence Favorable to the Defendant (ECF No. 117), and Motion for Early Disclosure of Jencks Materials (ECF No. 118). Based on the Motions, and on the entire file, the Court enters the following Order.

I. Motion for Discovery and Inspection (ECF No. 115)

The Motion for Discovery and Inspection is **GRANTED IN PART** as follows. The Government shall provide discovery to the extent required by Rules 16 and 26.2 of the Federal Rules of Criminal Procedure, *Brady v. Maryland*, 373 U.S. 83 (1963), and all other applicable statutory and constitutional rules. The obligation to provide discovery is continuing. With respect to expert discovery pursuant to Rules 16(a)(1)(G) and 16(b)(1)(C), the following deadlines shall apply:

- a. Initial expert disclosures: **28 days** prior to trial.
- b. Rebuttal expert disclosures: **14 days** prior to trial.

II. Motion for Disclosure of 404 Evidence (ECF No. 116)

The Motion for Disclosure of 404 Evidence is **GRANTED**. The Government shall provide the notice required by Rule 404(b) at least **two weeks** prior to trial. The notice requirement does not

apply to evidence of conduct that is inextricably intertwined with the offense conduct charged.

III. Motion to Compel Attorney for the Government to Disclose Evidence Favorable to the Defendant (ECF No. 117)

The Motion to Compel Attorney for the Government to Disclose Evidence Favorable to the Defendant is **GRANTED** to the extent required by *Brady v. Maryland*, 373 U.S. 83 (1963), *United States v. Giglio*, 405 U.S. 150 (1972), and their progeny. These cases impose affirmative and ongoing disclosure obligations on the Government.

IV. Motion for Early Disclosure of Jencks Act Material (ECF No. 118)

The Motion for Early Disclosure of Jencks Act Material is **DENIED**. See *United States v. White*, 750 F.2d 726, 728–29 (8th Cir. 1984). However, the Government has agreed, to the best of its abilities, to provide any Jencks Act material it has not already disclosed at least two weeks prior to the commencement of trial. The Court encourages the Government to make such disclosures at least two weeks prior to trial and to engage in “open-file” discovery, if possible, to ensure that there are no unnecessary delays at trial and to promote the fairness of the proceedings.

SO ORDERED.

Dated: May 8, 2025

s/ Dulce J. Foster

DULCE J. FOSTER

United States Magistrate Judge